

BEFORE THE BOARD OF ENVIRONMENTAL REVIEW
OF THE STATE OF MONTANA

In the matter of the amendment of ARM)	NOTICE OF PUBLIC HEARING ON
17.8.102, 17.8.103, 17.8.201, 17.8.202,)	PROPOSED AMENDMENT
17.8.302, 17.8.602, 17.8.767, 17.8.801,)	
17.8.802, 17.8.818, 17.8.901, 17.8.902,)	(AIR QUALITY)
17.8.1002, 17.8.1007, 17.8.1102,)	
17.8.1201, 17.8.1202, 17.8.1206,)	
17.8.1212, 17.8.1232, 17.8.1234,)	
17.8.1302, 17.8.1402, 17.8.1502, and)	
17.8.1509 pertaining to incorporation by)	
reference of current federal regulations)	
and other materials into air quality rules)	

TO: All Concerned Persons

1. On _____, 2007, at _____ .m., the Board of Environmental Review will hold a public hearing [in/at address], Montana, to consider the proposed amendment of the above-stated rules.

2. The board will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the board no later than 5:00 p.m., _____, 2007, to advise us of the nature of the accommodation that you need. Please contact the board secretary at P.O. Box 200901, Helena, Montana, 59620-0901; phone (406) 444-2544; fax (406) 444-4386; or e-mail ber@mt.gov.

3. The rules proposed to be amended provide as follows, stricken matter interlined, new matter underlined:

17.8.102 INCORPORATION BY REFERENCE--PUBLICATION DATES

- (1) Unless expressly provided otherwise, in this chapter where the board has:
- (a) adopted a federal regulation by reference, the reference is to the July 1, ~~2005~~ 2006, edition of the Code of Federal Regulations (CFR);
 - (b) adopted a section of the United States Code (USC) by reference, the reference is to the 2000 edition of the USC and Supplement III IV (~~2003~~ 2006);
 - ~~(c) referred to a section of the Montana Code Annotated (MCA), the reference is to the 2005 edition of the MCA;~~
 - ~~(d)~~ (c) adopted another rule of the department or of another agency of the state of Montana by reference, the reference is to the December 31, ~~2005~~ 2006, edition of the Administrative Rules of Montana (ARM).

AUTH: 75-2-111, MCA
IMP: Title 75, chapter 2, MCA

MAR Notice No. 17-____

17.8.103 INCORPORATION BY REFERENCE AND AVAILABILITY OF REFERENCED DOCUMENTS (1) For the purposes of this subchapter, the board hereby adopts and incorporates by reference the following:

- (a) through (d) remain the same.
- ~~(e) 40 CFR Part 52, subpart BB, pertaining to the implementation plan for control of air pollution in Montana;~~
- (f) and (g) remain the same, but are renumbered (e) and (f).
- ~~(h) (g) 40 CFR Part 60, Appendix B, pertaining to EPA performance specification and test procedures for continuous emission monitoring systems, except for the revisions to Appendix B, as set forth in the final rule published at 70 FR 28606 on May 18, 2005, "Standards of Performance for New and Existing Stationary Sources: Electric Utility Steam Generating Units" (the Clean Air Mercury Rule (CAMR));~~
- (i) through (p) remain the same, but are renumbered (h) through (o).
- (2) remains the same.
- (3) Copies of federal materials also may be obtained from:
 - (a) through (c) remain the same.
 - (d) the EPA regional office libraries of each of the ten EPA regional offices listed at <http://www.epa.gov/natlibra/libraries.htm>.
- (4) remains the same.

AUTH: 75-2-111, MCA

IMP: Title 75, chapter 2, MCA

17.8.201 DEFINITIONS In this subchapter, the following words and phrases shall have the following meanings:

- (1) and (2) remain the same.
- (3) "Annual average" means an arithmetic average of any four consecutive valid calendar quarterly averages, where calendar quarterly averages are determined as specified in (3)(a) and (b); except that for hourly data at least 6,570 valid hourly averages must be contained in the four consecutive calendar quarters.
- (a) through (33) remain the same.

AUTH: 75-2-111, 75-2-202, MCA

IMP: 75-2-202, MCA

17.8.202 INCORPORATION BY REFERENCE (1) For the purposes of this subchapter, the board hereby adopts and incorporates by reference the following:

- (a) through (2) remain the same.
- (3) Copies of federal materials also may be obtained from:
 - (a) through (c) remain the same.
 - (d) the EPA regional office libraries of each of the ten EPA regional offices listed at <http://www.epa.gov/natlibra/libraries.htm>.
- (4) remains the same.

AUTH: 75-2-111, 75-2-203, MCA

IMP: 75-2-203, MCA

17.8.302 INCORPORATION BY REFERENCE (1) For the purposes of this subchapter, the board adopts and incorporates by reference the following:

(a) 40 CFR Part 60, pertaining to standards of performance for new stationary sources and modifications, with the following exceptions:

(i) remains the same.

(ii) ~~the revisions to 40 CFR 60.17, 21, 24, 41a, 45-46a, 48-52a, 4101-4176 (new subpart HHHH), and Appendix B, as set forth in the final rule published at 70 FR 28606 on May 18, 2005, "Standards of Performance for New and Existing Stationary Sources: Electric Utility Steam Generating Units" (the Clean Air Mercury Rule (CAMR)) are not incorporated by reference~~ 40 CFR 60.4141-4142, pertaining to mercury allowance allocations;

(b) through (2) remain the same.

(3) Copies of federal materials also may be obtained from:

(a) through (c) remains the same.

(d) ~~the EPA regional office libraries of each of the ten EPA regional offices listed at <http://www.epa.gov/natlibra/libraries.htm>.~~

(4) remains the same.

AUTH: 75-2-111, 75-2-203, MCA

IMP: 75-2-203, MCA

17.8.602 INCORPORATION BY REFERENCE (1) For the purposes of this subchapter, the board ~~hereby~~ adopts and incorporates by reference ARM Title 17, chapter 53, subchapter 5, identifying and defining hazardous wastes.

(2) remains the same.

(3) Copies of federal materials also may be obtained from:

(a) through (c) remain the same.

(d) ~~the EPA regional office libraries of each of the ten EPA regional offices listed at <http://www.epa.gov/natlibra/libraries.htm>.~~

(4) remains the same.

AUTH: 75-2-111, 75-2-203, MCA

IMP: 75-2-203, MCA

17.8.767 INCORPORATION BY REFERENCE (1) For the purposes of this subchapter, the board adopts and incorporates by reference:

(a) and (b) remain the same.

~~(c) 40 CFR Part 52, subpart BB specifying the Montana State Implementation Plan for controlling air pollution in Montana;~~

~~(d) (c)~~ 40 CFR Part 60, specifying standards of performance for new stationary sources, except for 40 CFR 60.4141-4142, pertaining to mercury allowance allocations;

(e) through (h) remain the same, but are renumbered (d) through (g).

(2) remains the same.

(3) Copies of federal materials also may be obtained from:

(a) through (c) remain the same.

(d) the EPA regional office libraries of each of the ten EPA regional offices listed at <http://www.epa.gov/natlibra/libraries.htm>.

(4) remains the same.

AUTH: 75-2-111, 75-2-204, MCA

IMP: 75-2-211, 75-2-215, MCA

17.8.801 DEFINITIONS In this subchapter, the following definitions apply:

(1) through (3)(b) remain the same.

(4) "Baseline concentration" means that ambient concentration level which exists in the baseline area at the time of the applicable minor source baseline date.

(a) A baseline concentration is determined for each pollutant for which a minor source baseline date is established and shall include:

(i) the actual emissions representative of sources in existence on the applicable minor source baseline date, except as provided in (4)(b) below; and

(ii) through (21)(d) remain the same.

(22) The following apply to the definition of the term "major stationary source":

(a) "major stationary source" means:

(i) and (ii) remain the same.

(iii) any physical change that would occur at a stationary source not otherwise qualifying under (22)(a)(i) or (ii) above, as a major stationary source if the change would constitute a major stationary source by itself.

(b) through (29) remain the same.

AUTH: 75-2-111, 75-2-203, MCA

IMP: 75-2-202, 75-2-203, 75-2-204, MCA

17.8.802 INCORPORATION BY REFERENCE (1) For the purposes of this subchapter, the board adopts and incorporates by reference the following:

(a) through (c) remain the same.

(d) 40 CFR Part 60, pertaining to standards of performance for new stationary sources, except for ~~the revisions to 40 CFR 60.17, 21, 24, 41a, 45-46a, 48-52a, 4101-4176 (new subpart HHHH), and Appendix B, as set forth in the final rule published at 70 FR 28606 on May 18, 2005, "Standards of Performance for New and Existing Stationary Sources: Electric Utility Steam Generating Units" (the Clean Air Mercury Rule (CAMR))~~ 40 CFR 60.4141-4142, pertaining to mercury allowance allocations;

(e) through (2) remain the same.

(3) Copies of federal materials also may be obtained from:

(a) through (c) remain the same.

(d) the EPA regional office libraries of each of the ten EPA regional offices listed at <http://www.epa.gov/natlibra/libraries.htm>.

(4) and (5) remain the same.

AUTH: 75-2-111, 75-2-203, MCA

IMP: 75-2-202, 75-2-203, 75-2-204, MCA

17.8.818 REVIEW OF MAJOR STATIONARY SOURCES AND MAJOR MODIFICATIONS--SOURCE APPLICABILITY AND EXEMPTIONS (1) through (6) remain the same.

(7) The department may exempt a proposed major stationary source or major modification from the requirements of ARM 17.8.822, with respect to monitoring for a particular pollutant, if:

- (a) through (a)(x) remain the same.
- (b) the concentrations of the pollutant in the area that the source or modification would affect are less than the concentrations listed in (7)(a) above; or
- (c) the pollutant is not listed in (7)(a) above.

AUTH: 75-2-111, 75-2-203, MCA

IMP: 75-2-202, 75-2-203, 75-2-204, MCA

17.8.901 DEFINITIONS In this subchapter the following definitions apply:

(1) through (10)(b) remain the same.

(11) "Major modification" means any physical change in, or change in the method of, operation of a major stationary source that would result in a significant net emissions increase of any pollutant subject to regulation under the FCAA.

(a) through (b)(ii) remain the same.

(iii) use of an ~~alterative~~ alternative fuel by reason of an order or rule under section 125 of the FCAA;

(iv) through (vii) remain the same.

(12) The following apply to the definition of the term "major stationary source":

(a) through (a)(ii) remain the same.

(iii) any physical change that would occur at a stationary source not qualifying under (12)(a)(i) or (ii) ~~above~~ as a major stationary source, if the change would constitute a major stationary source by itself.

(b) through (20) remain the same.

AUTH: 75-2-111, 75-2-203, MCA

IMP: 75-2-202, 75-2-203, 75-2-204, MCA

17.8.902 INCORPORATION BY REFERENCE (1) For the purposes of this subchapter, the board adopts and incorporates by reference the following:

(a) 40 CFR Part 60, pertaining to standards of performance for new stationary sources, except for the revisions to 40 CFR 60.17, 21, 24, 41a, 45-46a, 48-52a, 4101-4176 (new subpart HHHH), and Appendix B, as set forth in the final rule published at 70 FR 28606 on May 18, 2005, "Standards of Performance for New and Existing Stationary Sources: Electric Utility Steam Generating Units" (the Clean Air Mercury Rule (CAMR)); 40 CFR 60.4141-4142, pertaining to mercury allowance allocations;

(b) through (2) remain the same.

(3) Copies of federal materials also may be obtained from:

(a) through (c) remain the same.

(d) the EPA regional office libraries of each of the ten EPA regional offices listed at <http://www.epa.gov/natlibra/libraries.htm>.

(4) and (5) remain the same.

AUTH: 75-2-111, 75-2-203, MCA

IMP: 75-2-202, 75-2-203, 75-2-204, MCA

17.8.1002 INCORPORATION BY REFERENCE (1) For the purposes of this subchapter, the board adopts and incorporates by reference the following:

(a) 40 CFR Part 60, pertaining to standards of performance for new stationary sources, except for the revisions to 40 CFR 60.17, 21, 24, 41a, 45-46a, 48-52a, 4101-4176 (new subpart HHHH), and Appendix B, as set forth in the final rule published at 70 FR 28606 on May 18, 2005, "Standards of Performance for New and Existing Stationary Sources: Electric Utility Steam Generating Units (the Clean Air Mercury Rule (CAMR))" 40 CFR 60.4141-4142, pertaining to mercury allowance allocations;

(b) through (2) remain the same.

(3) Copies of federal materials also may be obtained from:

(a) through (c) remain the same.

(d) the EPA regional office libraries of each of the ten EPA regional offices listed at <http://www.epa.gov/natlibra/libraries.htm>.

(4) and (5) remain the same.

AUTH: 75-2-111, 75-2-203, MCA

IMP: 75-2-202, 75-2-203, 75-2-204, MCA

17.8.1007 BASELINE FOR DETERMINING CREDIT FOR EMISSIONS AND AIR QUALITY OFFSETS (1) For the purpose of this subchapter the following requirements shall apply:

(a) and (b) remain the same.

(c) in the case of emission offsets involving volatile organic compounds and oxides of nitrogen, offsets will generally be acceptable if they are obtained from within the areas specified in (1)(b) above. If the proposed offsets would be from sources located at considerable distances from the new source, the department shall increase the ratio of the required offsets and require a showing by the applicant that nearby offsets were investigated and reasonable alternatives were not available; and

(d) and (e) remain the same.

AUTH: 75-2-111, 75-2-203, MCA

IMP: 75-2-202, 75-2-203, 75-2-204, MCA

17.8.1102 INCORPORATION BY REFERENCE (1) For the purposes of this subchapter, the board hereby adopts and incorporates by reference the following:

(a) through (2) remain the same.

(3) Copies of federal materials also may be obtained from:

(a) through (c) remain the same.

(d) the EPA regional office libraries of each of the ten EPA regional offices listed at <http://www.epa.gov/natlibra/libraries.htm>.

(4) remains the same.

AUTH: 75-2-111, MCA

IMP: Title 75, chapter 2, MCA

17.8.1201 DEFINITIONS In this subchapter, unless indicated otherwise, the following definitions apply:

(1) through (1)(d) remain the same.

(e) incorporates any other type of change which the department and EPA have determined to be similar to those revisions set forth in (1)(a) through (d) above.

(2) through (22)(b) remain the same.

(23) "Major source" means any stationary source (or any group of stationary sources that are located on one or more contiguous or adjacent properties, and are under common control of the same person (or persons under common control)) belonging to a single major industrial grouping and that are described in (23)(a) through (c) below. For the purposes of defining "major source," a stationary source or group of stationary sources shall be considered part of a single industrial grouping if all of the pollutant emitting activities at such source or group of sources on contiguous or adjacent properties belong to the same major group (i.e., all have the same two-digit code) as described in the Standard Industrial Classification Manual, 1987.

(a) through (33) remain the same.

AUTH: 75-2-217, MCA

IMP: 75-2-217, 75-2-218, MCA

17.8.1202 INCORPORATION BY REFERENCE (1) For the purposes of this subchapter, the board adopts and incorporates by reference the following:

(a) remains the same.

(b) 40 CFR Part 72, pertaining to the operating permit requirements for acid rain sources subject to Title IV of the FCAA, ~~except for the revisions to 40 CFR 72.2, as set forth in the final rule published at 70 FR 28606 on May 18, 2005, "Standards of Performance for New and Existing Stationary Sources: Electric Utility Steam Generating Units" (the Clean Air Mercury Rule (CAMR));~~

(c) 40 CFR Part 75, pertaining to the continuous emission monitoring requirements for acid rain sources subject to Title IV of the FCAA, ~~except for the revisions to 40 CFR 75.2, 6, 10, 15, 20-22, 24, 31-33, 38-39, 53, 57-59, 80-84, and Appendices A, B, F, and K, as set forth in the final rule published at 70 FR 28606 on May 18, 2005, "Standards of Performance for New and Existing Stationary Sources: Electric Utility Steam Generating Units" (the Clean Air Mercury Rule (CAMR)) and sources subject to mercury monitoring requirements;~~

(d) through (2) remain the same.

(3) Copies of federal materials also may be obtained from:

(a) through (c) remain the same.

(d) the EPA regional office libraries of each of the ten EPA regional offices listed at <http://www.epa.gov/natlibra/libraries.htm>.

(4) and (5) remain the same.

AUTH: 75-2-217, MCA

IMP: 75-2-217, 75-2-218, MCA

17.8.1206 INFORMATION REQUIRED FOR AIR QUALITY OPERATING PERMIT APPLICATIONS (1) through (4) remain the same.

(5) The applicant shall, at a minimum, provide the information specified below:

(a) through (c) remain the same.

(d) identification and description of all points of emissions described in (5)(c) above, in sufficient detail to establish both the basis for fees and the applicability of any applicable requirement;

(e) through (j) remain the same.

(k) all calculations on which the information in (5)(a) through (j) above is based;

(l) through (11) remain the same.

AUTH: 75-2-217, 75-2-218, MCA

IMP: 75-2-217, 75-2-218, MCA

17.8.1212 REQUIREMENTS FOR AIR QUALITY OPERATING PERMIT CONTENT RELATING TO MONITORING, RECORDKEEPING, AND REPORTING

(1) through (2)(b) remain the same.

(3) Each air quality operating permit shall incorporate the following requirements relating to reporting:

(a) and (b) remain the same.

(c) Prompt reporting of deviations from permit requirements, including those attributable to upset conditions as defined in the permit, the probable cause of such deviations, and any corrective actions or preventive measures taken. To be considered prompt, deviations shall be reported as part of the routine reporting requirements under (3)(b) above, and if applicable, in accordance with the malfunction reporting requirements under ARM 17.8.110, unless otherwise specified in an applicable requirement.

(4) remains the same.

AUTH: 75-2-217, 75-2-218, MCA

IMP: 75-2-217, 75-2-218, MCA

17.8.1232 PUBLIC PARTICIPATION (1) Except for permit changes not requiring revisions under ARM 17.8.1224, administrative permit amendments under ARM 17.8.1225, department review of activities to be conducted pursuant to general permits under ARM 17.8.1222, and minor permit modifications where the department has not made a determination that public notice is required under ARM 17.8.1226(12), all air quality operating permit proceedings, including initial permit

issuance, minor permit modifications where the department has made a determination that public notice is required under ARM 17.8.1226(12), significant permit modifications, and renewals, shall provide adequate procedures for public notice, including an opportunity for both public comment and a hearing on the draft permit. These procedures shall include the following:

- (a) remains the same.
- (b) The notice required under (1)(a) above, shall identify the following:
 - (i) through (3) remain the same.

AUTH: 75-2-217, MCA

IMP: 75-2-217, 75-2-218, MCA

17.8.1234 ACID RAIN--PERMITS REGULATION (1) For the purpose of this rule, the following definitions apply:

- (a) remains the same.
- (b) The terms and associated definitions specified in 40 CFR Part 72 shall apply to this rule, except as specified in (1)(a) above.
- (2) remains the same.

AUTH: 75-2-217, MCA

IMP: 75-2-217, MCA

17.8.1302 INCORPORATION BY REFERENCE (1) remains the same.
(2) Copies of federal materials incorporated by reference in this subchapter may be obtained from:

- (a) through (c) remain the same.
- (d) the EPA regional office libraries of each of the ten EPA regional offices listed at <http://www.epa.gov/natlibra/libraries.htm>.
- (3) remains the same.

AUTH: 75-2-111, MCA

IMP: 75-2-202, MCA

17.8.1402 INCORPORATION BY REFERENCE (1) For the purposes of this subchapter, the board hereby adopts and incorporates herein by reference the following:

- (a) through (a)(iv) remain the same.
- (2) Copies of federal materials incorporated by reference in this subchapter may be obtained from:
 - (a) through (c) remain the same.
 - (d) the EPA regional office libraries of each of the 10 EPA regional offices listed at <http://www.epa.gov/natlibra/libraries.htm>.
 - (3) remains the same.

AUTH: 75-2-111, MCA

IMP: 75-2-202, MCA

17.8.1502 INCORPORATION BY REFERENCE (1) For purposes of this subchapter, the board adopts and incorporates by reference the following:

(a) 40 CFR part 51.214 and 40 CFR Part 51, Appendix P, which set forth EPA minimum emissions monitoring requirements for the Montana State Implementation Plan;

(b) 40 CFR part 60.13 and 40 CFR Part 60, Appendix B, which set forth EPA performance specification and test procedures for continuous emission monitoring systems for new stationary sources, ~~except for the revisions to 40 CFR Part 60, Appendix B, as set forth in the final rule published at 70 FR 28606 on May 18, 2005, "Standards of Performance for New and Existing Stationary Sources: Electric Utility Steam Generating Units" (the Clean Air Mercury Rule (CAMR));~~

(c) 40 CFR Part 63, which sets forth monitoring requirements and performance specifications for source categories of hazardous air pollutants; and

(d) 40 CFR part 72.2, which contains the definition of utility unit, ~~except for the revisions to 40 CFR 72.2, as set forth in the final rule published at 70 FR 28606 on May 18, 2005, "Standards of Performance for New and Existing Stationary Sources: Electric Utility Steam Generating Units" (the Clean Air Mercury Rule (CAMR));~~

(e) 40 CFR part 75, which describes the continuous emission monitoring requirements for acid rain sources subject to Title IV of the FCAA, ~~except for the revisions to 40 CFR 75.2, 6, 10, 15, 20-22, 24, 31-33, 38-39, 53, 57-59, 80-84, and Appendices A, B, F, and K, as set forth in the final rule published at 70 FR 28606 on May 18, 2005, "Standards of Performance for New and Existing Stationary Sources: Electric Utility Steam Generating Units" (the Clean Air Mercury Rule (CAMR))~~ and sources subject to mercury monitoring requirements; and

(f) and (2) remain the same.

(3) Copies of federal materials also may be obtained from:

(a) through (c) remain the same.

(d) the EPA regional office libraries of each of the ten EPA regional offices listed at <http://www.epa.gov/natlbra/libraries.htm>.

(4) remains the same.

AUTH: 75-2-217, 75-2-218, MCA

IMP: 75-2-217, 75-2-218, MCA

17.8.1509 DEADLINES FOR SUBMITTALS (1) For all pollutant-specific emissions units with the potential to emit (taking into account control devices to the extent appropriate under the definition of this term in ARM 17.8.1501(16)) the applicable regulated air pollutant in an amount equal to or greater than 100% of the amount, in tons per year, required for a source to be classified as a major source, the owner or operator shall submit the information required under ARM 17.8.1507 and 17.8.1508 at the following times:

(a) through (b) remain the same.

(c) The owner or operator shall submit any information not submitted under the deadlines set forth in (1)(a) and (b) ~~above~~, as part of the application for the renewal of an air quality operating permit.

(2) For all other pollutant-specific emissions units subject to this subchapter and not subject to (1) ~~above~~, the owner or operator shall submit the information required under ARM 17.8.1507 and 17.8.1508 as part of an application for a renewal of an air quality operating permit.

(3) The effective date for the requirement to submit information under ARM 17.8.1507 and 17.8.1508 shall be as specified pursuant to (1) and (2) ~~above~~, and a permit reopening to require the submittal of information under this rule shall not be required pursuant to ARM 17.8.1228(1)(a), provided, however, that, if an air quality operating permit is reopened for cause by the department pursuant to ARM 17.8.1228(1)(c) or (d), the department may require the submittal of information under this rule for those pollutant-specific emissions units that are subject to this subchapter and that are affected by the permit reopening.

(4) remains the same.

AUTH: 75-2-217, 75-2-218, MCA

IMP: 75-2-217, 75-2-218, MCA

REASON: The board is proposing to amend the air quality rules to adopt the current editions of federal statutes and regulations that are incorporated by reference. This is necessary to maintain primacy from the U.S. Environmental Protection Agency (EPA) over air quality regulation in the state. The board also is proposing to amend the rules to adopt the current editions of state rules that are incorporated by reference, in order to maintain consistency with any changes to those rules.

The board is proposing to amend ARM 17.8.102(1)(c) to delete the reference to the Montana Code Annotated (MCA). Incorporating the current edition of the MCA is not necessary, because the version of state statutes in effect at the time would apply in all instances where a state statute is applicable.

The board is proposing to amend ARM 17.8.102 to adopt revisions to federal regulations published in the Federal Register (FR) between July 1, 2005, and June 30, 2006, that are included in the July 1, 2006, edition of the Code of Federal Regulations (CFR). Revisions include additions and changes to EPA's "Guideline on Air Quality Models"; revision of standards for PM, NOX, and SO2 emissions for electric utility steam generating units; updating five instrumental test methods that measure emissions from stationary sources; clarification amendments to the national emission standards for hazardous air pollutants (NESHAPs) General Provisions; removal of methyl ethyl ketone (MEK) from the list of hazardous air pollutants; finalizing exemptions from the Title V operating permit program for five categories of area sources subject to the NESHAPs (dry cleaners, halogenated solvent degreasers, chrome electroplaters, ethylene oxide sterilizers, and secondary aluminum smelters); and clarifying and technical amendments to the NESHAPs for hazardous waste combustors, cement kilns, plywood and composite wood production, primary aluminum reduction plants, secondary aluminum production, reinforced plastic composites production, and commercial boilers and process heaters.

The board is proposing to amend ARM 17.8.103(3)(d), 17.8.202(3)(d), 17.8.302(3)(d), 17.8.602(3)(d), 17.8.767(3)(d), 17.8.802(3)(d), 17.8.902(3)(d),

17.8.1002(3)(d), 17.8.1102(3)(d), 17.8.1202(3)(d), 17.8.1302(2)(d), 17.8.1402(2)(d), and 17.8.1502(3)(d) to update a source of federal materials. EPA suggested these changes because some of its regional libraries have closed and the references in the listed sections were no longer accurate.

The board is proposing to delete ARM 17.8.103(1)(e) and 17.8.767(1)(c) to remove the incorporation by reference of 40 CFR 52, subpart BB, which describes the Montana State Implementation Plan (SIP). The reason for this proposed amendment is because 40 CFR 52, subpart BB, describes existing state requirements already adopted by the board which EPA has published in the CFR in order to make them federally enforceable, so this incorporation is not necessary.

The board is proposing to amend ARM 17.8.103(1)(h), 17.8.302(1)(a)(ii), 17.8.767(1)(d), 17.8.802(1)(d), 17.8.902(1)(a), 17.8.1002(1)(a), 17.8.1202(1)(b) and (c), and 17.8.1502(1)(b), (d), and (e) to revise references to the federal mercury regulations. The existing rules except EPA's Clean Air Mercury Rule (CAMR) from adoption and incorporation by reference. These exceptions were made pending the board's decision on state mercury rules. The board now has adopted state mercury rules that became effective on October 27, 2006, and that adopt and incorporate by reference all provisions of CAMR except the mercury emission credit allocation provisions of 40 CFR 60.4141-4142, because ARM 17.8.772 includes the state's own mercury emission credit allocation system. See, ARM 17.8.740, 17.8.767, 17.8.771, and 17.8.772. The proposed amendments would reflect the adoption and incorporation by reference of CAMR into the state mercury rules.

The board also is proposing several minor editorial revisions to change internal references to rule sections to conform to the current rule drafting style of the Secretary of State's office and to correct a typographical error. These amendments are not intended to change the meaning of the rules.

The board will also take testimony on submission of the proposed amendments to EPA as proposed revisions to the Montana SIP.

4. Concerned persons may submit their data, views, or arguments, either orally or in writing, at the hearing. Written data, views, or arguments may also be submitted to the board secretary at Board of Environmental Review, 1520 E. Sixth Avenue, P.O. Box 200901, Helena, Montana, 59620-0901; faxed to (406) 444-4386; or e-mailed to ber@mt.gov, no later than 5:00 p.m., _____, 2007. To be guaranteed consideration, mailed comments must be postmarked on or before that date.

5. _____, attorney for the board, or another attorney for the Agency Legal Services Bureau, has been designated to preside over and conduct the hearing.

6. The board maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding: air quality; hazardous waste/waste oil; asbestos control; water/wastewater treatment plant operator certification; solid waste; junk

vehicles; infectious waste; public water supplies; public sewage systems regulation; hard rock (metal) mine reclamation; major facility siting; opencut mine reclamation; strip mine reclamation; subdivisions; renewable energy grants/loans; wastewater treatment or safe drinking water revolving grants and loans; water quality; CECRA; underground/above ground storage tanks; MEPA; or general procedural rules other than MEPA. Such written request may be mailed or delivered to the Board of Environmental Review, 1520 E. Sixth Ave., P.O. Box 200901, Helena, Montana 59620-0901, faxed to the office at (406) 444-4386, e-mailed to the board secretary at ber@mt.gov or may be made by completing a request form at any rules hearing held by the board.

7. The bill sponsor notice requirements of 2-4-302, MCA, do not apply.

BOARD OF ENVIRONMENTAL REVIEW

By: /s/
JOSEPH W. RUSSELL, M.P.H.,
Chairperson

Reviewed by:

/s/
DAVID RUSOFF, Rule Reviewer

Certified to the Secretary of State, _____, 2007.